

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

KAREEM J. HOWELL,
Plaintiff,
v.
MEDINA, et.al.,
Defendants.

) Case No.: 1:20-cv-00114-NONE-SAB (PC)
)
) ORDER DIRECTING DEFENDANTS TO FILE A
) RESPONSE TO PLAINTIFF'S NOTICE OF
) VOLUNTARY DISMISSAL WITHIN SEVEN
) DAYS
)
) (ECF No. 32)
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Plaintiff Karen J. Howell is appearing *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

Currently before the Court is Plaintiff's notice of voluntary dismissal, filed January 26, 2021.

Pursuant to Federal Rule of Civil Procedure, a plaintiff may voluntarily dismiss an action without a court order by filing:

(i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment; or

(ii) a stipulation of dismissal signed by all parties who have appeared

Fed R Civ P 41(a)(1)(A)

Because Defendants have filed a motion for summary judgment which is pending before the Court, this action cannot be dismissed pursuant to Rule 41(a)(1)(A)(i). However, Defendants may

1 stipulate to dismissal pursuant to Rule 41(a)(1)(A)(ii). Should Defendants decline to stipulate, the
2 Court may dismiss this action based upon Plaintiff's request, "on terms that the court considers
3 proper." Fed. R. Civ. P. 41(a)(2). Accordingly, it is ORDERED that within **seven (7)** days from the
4 date of service of this order, Defendants shall file and serve a stipulation to the dismissal of this action
5 pursuant to Rule 41(a)(1)(A)(ii),¹ or to otherwise respond to Plaintiff's notice of voluntary dismissal.
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7 IT IS SO ORDERED.

8 Dated: January 27, 2021



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28 UNITED STATES MAGISTRATE JUDGE

¹ If Defendants stipulate to Plaintiff's voluntarily dismissal, the Court will construe the parties filings as a stipulation pursuant to Rule 41(a)(1)(A)(ii).